

I am writing to you today as a eight-year veteran of the technology industry in order to express broad and deep concerns that I have with the draft rules from the FCC that would allow internet service providers like Comcast to provide so called "internet fast lane" services.

As it is today, customers of internet providers select a package for internet services. In the case of a 4G or cellular provider, often no speed is specified in the packages. However, an amount of data that can be transferred is specified as part of this package. For example, as of this writing, AT&T Wireless offers 5 gigabytes of data for \$50. Similarly Comcast, a cable ISP, offers a package with a limit of 250 gigabytes stated in the terms-of-service. Unlike the 4G/cellular offering from AT&T, Comcast specifies a speed to go with the byte count - in this case up to 50 megabits per second.

Comcast has stated that it is unable to deliver the service for which their customers have paid. As you are no doubt aware, Comcast and Netflix have negotiated and come to an agreement on this very point. Without directly throttling Netflix traffic in particular, Comcast allowed its network links to become saturated and this degraded the performance of Netflix. As a customer of Comcast, I am paying for a set number of bytes and a particular speed. If I choose to use the bytes for which I have paid on a service such as Netflix, it is by definition no legitimate concern of Comcast. If they're saying that they cannot provide the level of service for which I have paid, then it is the FCC Commission's responsibility to force Comcast to use plain and standardized language to indicate to me, the customer, what it is that I am paying for.

AT&T also has a history of playing shady games with their data plans. They've been found guilty of overcharging for streaming video in at least one case, and the FCC has dealt with them on other issues such as limiting what devices or applications are allowed to use the data plan. Again, AT&T has no legitimate concern on how data that I have paid for is used.

As an expert working in several fields, including internetworking services, I am certain that Comcast (and similar companies) are misrepresenting the truth (if not lying) of the situation: As a result of the Netflix/Comcast deal, the Netflix experience improved for Comcast customers literally overnight. That must indicate that Comcast had the network capacity for the Netflix traffic all along; How could they "flip a switch" and suddenly have the network capacity necessary for all those millions of Netflix customers?

This is such a complex issue that it should be clear to anyone that it is not possible to properly establish & regulate an "internet fast lane" at this time. Here in this case we can see plainly sociopathic behavior from one of the largest communications companies in America, cleverly done in such a way as to do an end-run around the relatively weak rules the FCC had already established. No, for this "fast lane," not only do we lack the technology, we lack the law and competency to adequately oversee these companies in these matters. Instead, what we need to focus on is ensuring fair and universal access to the internet for consumers and businesses alike.

It isn't hard to see that, if the speed & byte count numbers on these internet plans are essentially meaningless (as they have been in the Netflix example), then the "regular lane" would similarly and immediately become just as congested exactly as it was in the Comcast/Netflix debacle. There is nothing in the proposed rules that would or could prevent a scenario like this from playing out.

Lastly, I would encourage all of you to explore the history and consolidation of these communication companies over the last twenty years; since the 1996 Telecommunications Act signed into law by President Clinton. This act provided direct funding and tax shelters for upgrades to broadband infrastructure in America that has never been realized. As a taxpayer and someone keenly attuned to technology, I would describe the collective behavior of communications companies as dishonest and fraudulent. Many books and articles have been published on this subject. Some authors have referred to this as the \$200 billion dollar fraud.

<http://www.newnetworks.com/ShortSCANDALSummary.htm>

http://www.pbs.org/cringely/pulpit/2007/pulpit_20070810_002683.html

The "internet fast lane" is not really a new argument. From a historical perspective, the approach with the 1996 Telecommunications Act was to decouple infrastructure from services. That meant a service provider could pay some or all of the consumers' infrastructure costs for a "fast lane". This act would allow a local exchange carrier install and maintain the physical wiring, and then to lease access to that wiring to other providers. This was to also include fiber optic wiring to every residence and business in America. Providers could provide voice, video, data and other services over

that infrastructure. This method of implementing the "internet fast lane" is a better and more well-thought-out strategy for ensuring no conflict of interest with types and classes of different services that could be provided to consumers on their network connections. The key difference is the actual separation of the "natural monopoly" of the physical wiring, and the services offered to consumers by different and competing companies on that shared physical wiring. Competing companies keeping an eye on one another helps ensure an automatically level playing field for all parties.

Incumbent carriers fought hard against the local exchange carrier system which has never come to pass in the last twenty years. Instead consumers are enduring higher prices for voice, long distance, data and television services. Many companies consolidated under the new rules; competition did not flourish because of the lack of universal access to the wired infrastructure. Of course the universal fiber optic network for Americans never came to pass either. If it had everything would already be an "internet fast lane" and streaming video services would be no problem.

Furthermore, the depth of expertise and experience of the FCC Commission is inadequate to draft these types of rules in any meaningful way. Even at this early stage, critics are rightly questioning how language in the rules such as "commercially reasonable" will be defined in practice. If we actually must seriously consider some type of "internet fast lane" at this stage, only an organization such as the IETF (Internet Engineering Task Force) could possibly have the resources and expertise to develop a truly fair set of rules.

For these reasons I am convinced that the proposed "internet fast lane" rules would immediately and irreparably poison the internet as we know it today. The communications companies in question cannot be trusted to decouple infrastructure from services which is essentially what we're talking about. Their pattern of behavior over the last twenty years gives me, as a consumer and technology expert, absolutely no reason to trust them or believe that they will act in any kind of fair, reasonable or honest way. The specific behavior of Comcast in the Netflix event, and the inaction by this FCC administration demonstrates that we must first establish a framework of rules for companies to follow before we begin to talk about an "internet fast lane." It is absolutely essential that the FCC takes immediate steps to properly observe, document and audit actions or inactions taken by incumbent communications companies if we are to maintain a fair and universal internet access for American citizens. Part of this will also be to force communications companies to clearly state what customers are buying in plain terms of speed and byte counts with their plans because of absurd situation consumers face where, on paper, they have enough bytes and speed to enjoy Netflix (and services like it) but the reality is that Comcast (and similar communications companies) are unwilling to provide the service. It is also likely that these communications companies must be reclassified as common carriers as well.

Without first having this in place, we simply cannot begin the conversation about an "internet fast lane." It's just far too premature. As like-minded individuals interested in the preservation of a free, open and universal-access internet, it is clear our first priority must be toward establishing a framework that requires transparency and honesty in how ISPs conduct business and maintain their networks. The FCC must monitor and document behavior and the results or consequences of how those companies are conducting business. As consumers, we also need transparency and honesty in order to do effective apples-to-apples comparisons between services offered by these providers.